

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING
IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-05-0542.M5

MDR Tracking Number: M5-04-3206-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 05-20-04. Date of service 05-19-03 per Rule 133.308(e)(1) was not timely filed.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The office visit with manipulation on dates of service 05-22-03 and 06-23-03 **were** found to be medically necessary. The office visits with manipulation, electrical stimulation, manual therapy, mechanical traction, supplies/materials, ultrasound therapy, chiropractic manipulative therapy and x-ray of the spine for dates of service 05-22-03 through 08-07-03 **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for office visits with manipulation, electrical stimulation, manual therapy, mechanical traction, supplies/materials, ultrasound therapy, chiropractic manipulative therapy and x-ray of the spine rendered between 05-22-03 and 08-07-03.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this Order. This Order is applicable to dates of service 05-22-03 through 08-07-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Findings and Decision and Order are hereby issued this 17th day of August 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division
DLH/dlh

NOTICE OF INDEPENDENT REVIEW DECISION

Date: August 9, 2004

MDR Tracking #: M5-04-3206-01
IRO Certificate #: 5242

_____ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to _____ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

_____ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Chiropractic reviewer who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Submitted by Requester:

- Case overview from _____.
- Daily notes
- Impairment rating from _____
- Worker's Comp patient questionnaires
- Operation procedure notes from _____.
- _____ review determination
- Texas administration code

Submitted by Respondent:

- Letter from the insurance company stating their position
- Chart of denials
- Attached EOB's
- Daily treatment notes from _____.
- Review from _____.

Clinical History

According to the supplied documentation, it appears the claimant slipped and fell while getting out of her vehicle in her employer's parking lot due to ice on the ground. It was reported that the claimant had pre-existing conditions which included degenerative joint disease as well as morbid obesity that exceeded 190% of height versus weight ratio. The injury occurred on 12/6/02 and three days later the claimant reported to _____ for evaluation and treatment. The claimant underwent passive and active modalities under the direction of _____. After conservative care appeared to plateau, the claimant was referred to _____ for sacroiliac joint injections. The claimant continued to undergo physical therapy as well as medications for pain and muscle spasms. The claimant was seen by _____ on 5/1/03 for an impairment rating. _____ reported that the claimant was not at maximum medical improvement, but would probably reach maximum medical improvement in the next 3-6 months. The claimant continued to receive chiropractic therapy. The claimant continued to have treatment performed by _____ with the last treatment being performed on January 16, 2004. The documentation ends here.

Requested Service(s)

Please review and address the medical necessity of the outpatient services including office visits with manipulation (99213-MP), electrical stimulation (97014), manual therapy (97140), mechanical traction (97012), supplies/materials (99070), ultrasound therapy (97035), chiropractic manipulative therapy (98941), and x-ray spine (72040) rendered between 5/22/03 and 8/7/03.

Decision

I disagree with the insurance company, and I agree with the treating doctor that the office visit (99213) dated 5/22/03 and the office visit (99213) dated 6/23/03 were medically necessary.

I agree with the insurance company that the remainder of the services in question were not medically necessary.

Rationale/Basis for Decision

According to the supplied documentation, the dates of service in question are approximately five months post injury as well as after the therapy was begun. The documentation supplied supports that after several months of conservative care consisting of chiropractic and physical modalities, the claimant appeared to plateau and showed little signs of improvement. Ongoing passive modalities after the initial 8-12 weeks are not seen as reasonable or necessary to treat the compensable injury dated _____. At the end of a reasonable period of approximately 12 weeks, the claimant would need to be transitioned to an aggressive home based exercise program that would continue to help reduce her symptoms and help return her to her pre-injury status. The continued use of passive modalities including adjustments, ultrasound, mechanical traction, and electrical stimulation are not considered reasonable and are not supported by current medical/chiropractic guidelines. The continued ongoing therapy did not appear to reduce the claimant's symptoms and is not objectively supported. The claimant's pre-existing complaints were also seen as a factor to complicate the healing process, but still do not support passive modalities five months post injury.